

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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United States of America, et al., NO. C 07-04234 JW

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Petitioners,

ORDER TO SHOW CAUSE RE: CONTEMPT

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v.

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Paul J. Sholtz,

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Respondent.

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In a Petition filed on August 17, 2007, the United States of America and Craig Harbidge, Revenue Officer (collectively, “Petitioners”) allege as follows:

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Craig Harbidge is an employee of the Internal Revenue Service (“IRS”).¹ In the course of his authorized duties, Harbidge has attempted to determine the federal tax liability of Paul J. Sholtz (“Respondent”) for various periods from 2001 to 2006. (Petition ¶ 3.) Pursuant to authority granted under 26 U.S.C. §§ 7602 *et seq.*, Harbidge served two summonses on Respondent requiring him to produce documents regarding Respondent’s income and to appear before Harbidge for investigation. (Id. ¶¶ 7-8, Ex. A.) Respondent did not comply with the summonses. (Id. ¶ 10.)

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On the basis of the allegations outlined above, Petitioners seek an order requiring Respondent to comply with the summonses.

¹ (Verified Petition to Enforce Internal Revenue Service Summonses ¶¶ 2-3, hereafter, “Petition,” Docket Item No. 1.)

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Upon filing, the case was assigned to Magistrate Judge Lloyd. On August 27, 2007, Judge Lloyd issued an order to show cause why Respondent should not be compelled to comply with the summonses. (See Docket Item No. 4.) Petitioners were required to serve the order to show cause on Respondent by September 11, 2007. (Id.) Petitioners were unable to timely serve Respondent because he refused to answer his door.²

On September 17, 2007, Judge Lloyd issued a second order to show cause. (See Docket Item No. 7.) Respondent was served with the second order on October 16, 2007. (See Docket Item No. 8.) On October 18, 2007, Respondent submitted a letter to Judge Lloyd stating the following:

Dear Servant,

On Tuesday, October 16, 2007, Sirrah Tracy Wong – a private employee working for the private offshore corporation known as the I.R.S. and an individual who has no lawful, legal authority whatsoever to be serving a Summons – presented me with this notice which apparently originated from your court.

Please note that your request to appear is hereby Refused for Cause.

Without Prejudice, All Rights Reserved,

/s/

Paul J. Sholtz

(See Docket Item No. 9.) Enclosed with the letter was the first page of the show cause order with a handwritten note scribbled “REFUSED FOR CAUSE” in the middle of the page. (Id.)

On November 27, 2007, Respondent appeared at the show cause hearing. (See Docket Item No. 11.) Respondent stated that he does not consent to the proceeding and that he does not recognize the authority of the federal government. (See Docket Item No. 12.) Judge Lloyd interpreted Respondent’s statements as a declination to proceed before a magistrate judge. Id. Judge Lloyd also issued a report recommending that the Petition be granted.³ The case was reassigned to this Court. (See Docket Item No. 14.)

On December 20, 2007, the Court issued an order adopting Judge Lloyd’s report and granting the Petition to enforce the IRS summonses. (Order Granting Petition to Enforce

² (See Docket Item No. 5.)

³ (Report and Recommendation that Verified Petition to Enforce IRS Summonses be Granted at 1, hereafter, “Lloyd Recommendation,” Docket Item No. 12.)

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1 Summons, hereafter "Order," Docket Item No. 16.) Respondent was ordered to comply with the
2 summonses within 60 days. (*Id.*) On January 8, 2008, Respondent sent Petitioners a letter in which
3 he denied the Court's authority over this matter. (Declaration of Thomas Moore in Support of
4 Motion to Find Respondent in Contempt, Ex. 2, Docket Item No. 19.)

5 Before the Court is Petitioners' Motion to Find Respondent in Contempt. (hereafter,
6 "Motion," Docket Item No. 18.) A hearing on the motion is currently scheduled for April 14, 2008.
7 In light of the representations and the evidence presented, the Court VACATES the April 14, 2008
8 hearing. The Court orders Respondent to appear on **May 5, 2008 at 9:00 a.m.** and to show cause, if
9 any, why he should not be held in contempt for failing to comply with the Court's December 20,
10 2007 Order. On or before **April 25, 2008**, Respondent shall file a certification in response to the
11 Order to Show Cause. The certification shall set forth the reasons why he has not complied with the
12 Court's Order enforcing the summonses.

13 Failure to comply with any part of this Order will be deemed sufficient grounds to hold
14 Respondent in civil contempt.

15 Petitioners shall personally serve this Order on Respondent and file the appropriate
16 certificate of service.

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18 Dated: April 9, 2008



JAMES WARE
United States District Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Thomas Moore tom.moore@usdoj.gov

3 Paul J Sholtz
650 Castro Street, Suite 120-485
4 Mountain View, CA 94041

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6 **Dated: April 9, 2008**

Richard W. Wiking, Clerk

7 **By: /s/ JW Chambers**

8 **Elizabeth Garcia**
Courtroom Deputy

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